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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4149 OF 2005
IN
CRIMINAL APPEAL NO.604 OF 2005

Vasant Dilip Londe ... Appellant

V/s.

The State of Maharashtra ... Respondent

Mr.Shekhar Ingawale for Appellant
Mr.A.S. Shitole, APP, for Respondent

CORAM: **D.G. DESHPANDE &**
SMT.NISHITA MHATRE, JJ.

DATED: **APRIL 16, 2007**

P.C.:

. This is an application by the accused for bail Heard learned advocate for the accused and the learned A.P.P. Three circumstances were placed before us by the accused for releasing him on bail. One is that the so called oral dying declaration made by the deceased to the witness PW3 could not be made by the deceased because according to the medical evidence, the deceased could not have survived for more than 3 - 4 minutes after receiving the fatal injuries on the chest and other parts of the body. Secondly, it was contended that the recovery of the weapon was not believed by the Court and thirdly, according to him, the person who lodged the FIR was not examined.

2. So far as the first part of the submission is

concerned, we found that though the Doctor has stated that after receiving the injuries the deceased could not have survived for more than 3 - 4 minutes. The learned A.P.P. rightly argued that it would depend upon the individual, his sustaining capacity, his strength and the total overall build of his body.

3. So far the recovery of weapon at the instance of the accused is concerned, it is true that both the Panchas have turned hostile but that is no reason to discard the testimony.

4. Apart from the weapon, the shirt of the accused was recovered which had blood stains and according to the Chemical Analyser report, the blood was human blood both on the weapon as well as the shirt. For all these reasons, this is not a case for grant of bail.

5. Application is rejected.

(D.G. DESHPANDE, J.)

(SMT.NISHITA MHATRE, J.)